IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9590 of 2004

Between:

1 J. Gopal Rao S/o Narsing Rao (died Per L. Rs. 2 to 7)
2 Smt. J. Sushila Bai W/o Gopal Rao Jagtap
R/o 6-11-23/6, Namdevwada, Nizamabad
3 P. Thanuja, W/o P. Shivaji
R/o H. No. 5-10-90, Ellammagutta, Nizamabad
4 S. Uma, W/o S. Shyam
R/o 4-5-189/1, Badichowdi, Hyderabad
5 M. Rashmitha W/o M. Madhukar
R/o Khapparla, Thamai Mandal, Adilabad District
6 J. Anuradha, D/o J. Gopal Rao
R/o 6-11-23/6, Namdeviwada, Nizamaabad 6 and 7 being Minors, rep by Mother and Natural
Guardian Smt. J. Sushila Bai, the 2n Appellant
7 J. Krishnaveni D/o J. Gopal Rao
R/o 6-11-23/6, Namdeviwada, Nizamaabad 6 and 7 being Minors, rep by Mother and Natural
Guardian Smt. J. Sushila Bai, the 2n Appellant

..... PETITIONER(S)

AND

1 The Deputy Registrar/Officer on Special Duty The Nizamabad Dist. Co-op Central Bank Ltd.,
Nizamabad
2 The Nizamabad Co-op town Bank Nizamabad rep by Person In Charge

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, one in the nature of mandamus declaring the action of the respondents in putting the residential house bearing No. 6-11-23/6, situated at Namdevwada of Nizamabad district for realization of amounts in E.P. No. 3/CC/2003-04 on the file of the 1st respondent as bad, ultravires, arbitrary and unconstitutional and against the principles of natural justice

Counsel for the Petitioners:MR.SERLA PANDARI

Counsel for the Respondents 1 and 2: MR.CH.JANARDHAN REDDY, SC for

Nizamabad District Cooperative Central Bank Limited, Nizamabad.

ORDER:

Heard both sides and at their request the main Writ Petition is taken up for disposal.

Petitioners herein seek to assail the impugned orders in E.P.No. 3/CC/2003-04 on the file of the firsts respondent herein.

Without going into the merits of the case, it is the case of the petitioner that even though on earlier occasion the Tribunal remanded the matter to the first respondent for considering the matter afresh, however, inspite of the same, no notice has been given nor any proper opportunity was given for contesting the proceedings and impugned orders came to be passed. On the other hand these contentions are denied by the counsel appearing for the respondents herein. It is submitted that though notice was pasted on the house of the petitioners, they did not appear.

Having considered the submissions and also on a perusal of the entire material on record, it is evident that there is no direct service of notice to the petitioners and the only mode of service which has been adopted is by way of fixing the notice on the doors and no sufficient reasons are forthcoming. The primary procedure to take notice directly to the petitioners, in this case, has failed. Having regard to the same, it is felt desirable that the matter should be re-considered afresh.

Accordingly, the Writ Petition is allowed and the respondents are directed to give notice to the petitioners and after giving proper opportunity and notice pass orders in accordance with law. This exercise shall be completed within three months from the date of receipt of a copy of this order. No costs.

09.11.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Tuesday the Ninth Day of November Tow Thousand and Four.

REGISTRAR

To

1. Co-op Central Bank Ltd.,
   Nizamabad
2 The Nizamabad Co-op town Bank Nizamabad rep by Person In Charge

3. 2 CCs to G.P. for Civil Supplies, High Court Buildings, High Court of A.P., Hyderabad (OUT)

4. 2 CD copies